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United States Senate

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STAT

July 24, 1985

#85-2586

The Honorable Richard G. Lugar
Chairman
Committee on Foreign Relations
United States Senate
Washington, D.C. 20510

Dear Dick:

As you proceed to Conference on H.R.2068, the Department of State Authorization Act, I would like to share with you some thoughts on the "Foreign Surveillance Prevention Act of 1985" which was included in the Senate passed version of the Bill as an amendment proposed by Senator Moynihan.

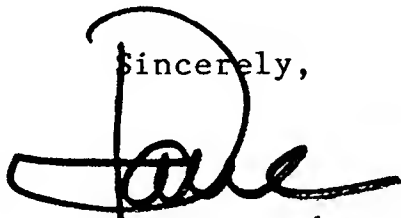
As you may know, Senator Moynihan has made an admirable effort over the past several years to focus attention on issues associated with foreign interception of the communications of Americans. During his tenure on the Intelligence Committee, Senator Moynihan helped bring communications security to the forefront of Executive branch attention, and extensive efforts are now being made to protect sensitive information. While I certainly can understand and appreciate Senator Moynihan's continued concern, I do not believe that enactment of the "Foreign Surveillance Prevention Act" would be helpful at this time.

The President already possesses all of the authority that the Moynihan Amendment would grant, and foreign diplomatic personnel have and will continue to be expelled from this country when such action is appropriate. Compliance with the Moynihan Amendment would, however, require either the revelation of sensitive intelligence sources and methods information to private persons and foreign governments, or the extensive routing of such information outside regular "need to know" intelligence channels in order to accomplish the Presidential determination necessary for a waiver of the notification provisions.

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Neither of these alternatives is necessary or advisable, and I believe that the Moynihan Amendment would, if enacted, operate in a manner counterproductive to its intended purpose. I urge you and your fellow conferees, therefore, not to insist that the Moynihan Amendment be included in the Conference Report.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave", written over the word "Sincerely,".

Dave Durenberger
Chairman

cc: The Honorable Claiborne Pell

with the BIB at the US Consulate in Munich; provides that a representative of the Secretary of State will attend RFE/RL Inc. and BIB Board meetings; amends section 6 of PL 93-129 directing the Secretary of State to report to BIB on the impact of broadcasts to Eastern Europe and the Soviet Union.

RFE/RL MANAGEMENT

The House bill sets forth certain findings and management recommendations with respect to the Board for International Broadcasting and Radio Free Europe/Radio Liberty Inc.

The Senate amendment contains no comparable provision.

The Conference substitute contains a similar amendment to the House bill. The managers believe that the management of Radio Free Europe/Radio Liberty Inc should consider, as a way to improve its broadcast quality and content, establishing a position and a procedure responsible for the daily oversight of the radios.

BROADCASTING TO SOVIET JEWRY

The House bill establishes a task force to study the advisability and feasibility of increasing broadcasts to the Jewish populations within the USSR. It also requires a report not later than 6 months after the date of enactment to be submitted to the Congress.

The Senate amendment prohibits grants to RFE/RL Inc. unless RFE/RL Inc. establishes in Radio Liberty a new program of Russian language broadcasting for the Jewish population of the USSR entitled "Radio Maccabee Program of Radio Liberty."

The conference substitute is similar to the House bill. It calls for a study and report within six months after enactment of this title and directs the radios to strengthen existing broadcasts of issues of concern to Jewish audiences in the Soviet Union. Such broadcasts may be known as Maccabee Program.

U.S. SCHOLARSHIP PROGRAM FOR DEVELOPING COUNTRIES

The Senate amendment authorizes a US scholarship for disadvantaged students from developing countries to study in the United States. The Senate amendment also provides that not less than 25% of funds appropriated for activities under this title will fund Latin America and Caribbean exchanges.

The House bill contains no comparable provision. However, a similar provision is contained in the House version of the Foreign Assistance bill which authorizes a US scholarship program for disadvantaged students from lesser developed countries to study in the United States. This provision also provides that if the student is granted asylum in the US of the Immigration and Nationality Act or is admitted to the US as a refugee, half of the repayment of the students loan shall be forgiven. The bill also provides that funds allocated for these scholarships shall be available to enhance the educational training and capabilities of the people of Latin America and the Caribbean and to promote better understanding between the US and Latin America. Funds may be used for program and administrative costs for institutions carrying out such programs. The provision also provides that the USIA shall recommend to each student under scholarship that he or she enroll in a course in the classics of American political thought. The House bill also provides that USIA funds (other than those appropriated for programs under the Mutual Education and Exchange Act) may be used to carry out this title with respect to students from developing countries outside Central America.

The conference substitute integrates all of the provisions of the House and Senate positions. The committee of conference note that a provision in the legislation recommends that each student receiving a such a scholarship enroll in a course which studies the "classics of American political thought". This recommendation may be broadly read to include course work in American history or politics, and should not be construed as a recommendation to study certain political thinkers. The recommendation to take such a course is not mandatory and should not be construed as a requirement for holding a scholarship. It is also the committee's intent in authorizing this program that resources currently available to other scholarship or exchange of persons programs funded by USIA, would not be diverted to fund these new programs.

UNIVERSITIES IN U.S. BORDER STATES

The Senate amendment requires the USIA Director and the Administrator of AID to report to Congress on the feasibility of greater utilization in those agency's scholarship programs of US universities in States bordering Latin America.

The House bill contains no comparable provision.

The Conference Substitute is identical to the Senate amendment.

FOREIGN SURVEILLANCE PREVENTION ACT

The Senate amendment establishes a procedure by which the President must identify and so report to the Congress the identify of any foreign national with diplomatic immunity who is engaging in electronic surveillance in the United States. The President must inform the targets of the surveillance; inform the chief of mission of the sponsoring government of the surveillance; and, unless that government ceases such surveillance, must declare the offending party persona non grata.

The House bill contains no comparable provision.

The conference substitute contains no provision on this issue. In considering this section, the Managers agreed with the findings that widespread use of electronic surveillance and the interception of telecommunications by foreign governments under the guise of normal diplomatic relations would pose a serious threat both to the national security of the United States and to the rights of privacy and association guaranteed to Americans by the Constitution.

Consequently, the Managers request the President to conduct a study of this problem and submit recommendations to the Congress, no later than January 1, 1987, for legislation and other actions designed to bring an end to such illicit electronic surveillance.

IRAN CLAIMS

The Senate amendment authorizes the Foreign Claims Settlement Commission to adjudicate and distribute awards to small claimants in the event of a lump sum settlement by the US-Iran Claims Tribunal, and to charge a modest fee to defray the costs of the Commission. It also authorizes the Secretary of the Treasury to deduct a small fee from awards to large claimants of the tribunal.

The House bill contains no comparable provision.

The conference substitute is substantially the same as the Senate provision.

ARMS CONTROL AND DISARMAMENT AMENDMENT ACT OF 1985

The Senate bill contains provisions dealing with the Arms Control and Disarmament Agency. Similar provisions were contained in H.R. 2456, a separately-passed measure.

FISCAL YEAR 1985 AUTHORIZATION

The Senate amendment (section 902) authorizes for fiscal year 1985 \$23,789,000 of which amount \$4,321,000 is earmarked for the Geneva arms control negotiations.

The House bill (section 1, subparagraph 2) authorizes for fiscal year 1985, \$23,789,000.

The conference substitute is the same as the Senate amendment.

FISCAL YEAR 1986 AND FISCAL YEAR 1987 AUTHORIZATIONS

The Senate amendment (section 903) authorizes \$25,614,000 for each of the fiscal years 1986 and 1987 for the Arms Control and Disarmament Agency. Of these amounts, \$6,146,000 in each fiscal year is earmarked for the Geneva arms control negotiations.

The House bill (section 1, subparagraphs 3, 4, and 5) authorizes for fiscal years 1986 and 1987 \$25,614,000 for each fiscal year, plus such additional amounts for each fiscal year as necessary for increases in salary, pay retirement, and other employee benefits authorized by law, foreign currency exchange rates, and other non-discretionary costs.

The conference substitute combines both the Senate and House provisions.

ARMS CONTROL COMPLIANCE REPORT

The Senate amendment (section 904) establishes a new section 38, in the Arms Control and Disarmament Act of 1981 as amended, that requires the President to submit an annual report to Congress, prepared by the Director of the Agency, in coordination with the heads of other relevant agencies, on the adherence of the United States to obligations undertaken in arms control agreements with other nations and on any problems related to compliance by other nations with the provision of bilateral and multilateral arms control agreements with the United States.

The House bill does not contain a comparable provision.

The conference substitute is the same as the Senate provision.

EXECUTIVE LEVEL UPGRADES

The House bill (section 2) provides for comparability adjustment in five senior ACDA executive level positions to conform them with counterparts in other agencies.

The Senate amendment does not contain a comparable provision.

The conference substitute is the same as the House provision.

COMPLIANCE WITH BUDGET ACT

The House bill (section 3) provides that the authorities provided shall be in compliance with the Congressional Budget Act of 1974.

The Senate amendment contains no comparable provision.

The conference substitute is the same as the House provision.

FUTURE ACDA AUTHORIZATION

The Managers intend that including the ACDA authorization as part of the Foreign Relations Authorization Act is a one-time exception and that future ACDA authorizations should be adopted as separate legislative measures.

ASIA FOUNDATION

The House bill authorizes \$10 million for the Asia Foundation.

The Senate amendment authorizes \$10.5 million for each of fiscal years 1986 and 1987 for the Asia Foundation in a separate Asia Foundation Act. The Conference Substitute is identical to the Senate amendment.